

I. FREE APPROPRIATE PUBLIC EDUCATION

It is the policy of the State of Iowa to provide a free appropriate public education (FAPE) for all resident children with disabilities in this state, in programs supervised by, and meeting standards established and approved by the State Education Agency (SEA). This declared policy is consistent with the State's mandate for special education law enacted July 1, 1974, and as subsequently amended.

A free appropriate public education is defined to include regular and special education and related services which:

1. are provided at public expense, under public supervision and direction, and without charge to the parent;
2. meet the educational standards of the State Education Agency pertaining to the education of students with disabilities;
3. include preschool, elementary school, secondary school education; and,
4. are provided in conformity with the individualized education program (IEP).

Existing state law establishes the policy of requiring that local education agencies (LEAs) and State operated educational programs make provisions for a free and appropriate public education sufficient to meet the needs of all children requiring special education. The law defines children requiring special education as persons under twenty-one years of age, including children under five years of age, who are handicapped in obtaining an education because of physical, mental, communication or learning disabilities or who are behaviorally disordered, as defined by the rules of the Department of Education.

Current State law mandates the availability of a free appropriate public education for all children with disabilities from birth to 21 years of age and to children requiring special education who have been suspended or expelled from school. Individuals who have been convicted as adults and are being served in adult prisons are entitled to FAPE if prior to their incarceration they were identified as an eligible individual and had an IEP. FAPE does not apply to incarcerated youth ages 18-21 who had not been previously identified as an eligible individual and did not have an IEP. There are special factors related to services for incarcerated youth outlined in Iowa Rules of Special Education.

Services are provided to any individual with exceptional needs even if he or she is progressing through the grades if the instruction or service is needed to benefit from instructional programs. The determination that such a child is eligible for services must be made on an individual basis by a group of individuals from the child's LEA and area education agency (AEA).

Public agencies in Iowa are not required to provide FAPE to the following children and youth.

1. Youth with disabilities who reach the age of 21.
2. Students who have graduated from high school with a regular high school diploma. However, students who have graduated, but have not been awarded a regular diploma continue to be eligible in Iowa to receive FAPE if they are under 21 years of age.

The delivery of required special education and related services to children with disabilities involves the SEA, AEAs and LEAs. Other public agencies in this State with responsibilities for the delivery of educational services to children with disabilities include the Iowa Department of Corrections, Iowa Braille and Sight Saving School, Iowa School for the Deaf, and those facilities operated by the Iowa Department of Human Services. The educational programs provided children with disabilities by all agencies are under the general supervision and conform to educational standards established by the Department of Education.

The State of Iowa has established rules and regulations governing the delivery of special education and related services to children with disabilities in the school systems of the State. These rules establish basic requirements for the establishment and maintenance of appropriate instructional and support service programs. They also address FAPE for children suspended or expelled from school. Additionally, standards relating to the licensure of all instructional and support service personnel have been established and approved by the Board of Educational Examiners. The SEA has the primary responsibility for auditing compliance by all agencies with the provisions of the aforementioned rules and standards.

Privately operated schools and privately operated residential schools providing educational services for children with disabilities are subject to program approval by the SEA and must comply with all applicable rules and standards relating to the delivery of educational services.

In accordance with this stated policy, all children with disabilities between the ages of birth and 21 have a free appropriate public education available to them. Public education for regular education students is available for students between five and twenty-one years of age.

Serving students to the age of 21 is consistent with Iowa law that defines school age as being "persons between five and twenty-one years of age." State law also requires school boards to provide special education programs and services for all children requiring special education, thus mandating a free and appropriate public education for students with disabilities who are ages birth to five.

Legal References

Federal Requirements:

20 USC 1412 (a)(1).....	State Policy and procedure requirements
20 USC 1432.....	Early intervention services
34 CFR 300.2.....	Applicability of Part 300
34 CFR 300.13.....	Definition of FAPE
34 CFR 300.121.....	Required information for FAPE
34 CFR 300.122.....	Exceptions to FAPE
34 CFR 300.300-313.....	Provision of FAPE, residence, and hearing aids
34 CFR 300.342(c).....	IEP for children aged 3 to 5 years
34 CFR 300.519-524.....	FAPE for suspension/expulsion
34 CFR 300.503.....	Prior notice for graduation with a diploma

Iowa Requirements

Iowa Code 256B Special Education

Iowa Code 273.5 Area Education Agency – Special Education

Iowa Administrative Rules of Special Education

281 – 41.3(3) – Free appropriate public education

281 – 41.3(1) - Availability

281 - 41.71–41.73 – Discipline procedures, manifestation determination, appeal

281 – 41.60 – Effective date

281 – 41.4(1) – Exception to FAPE